



Law Enforcement

2014 LEGISLATIVE UPDATE

Digest

Law enforcement officers: Thank you for your service, protection and sacrifice.

2014 WASHINGTON LEGISLATIVE UPDATE

LED INTRODUCTORY EDITORIAL NOTE: In prior years we have included the legislative update over the course of two or more LED editions, generally including legislation as it is passed. Beginning last year we have included all of the legislation of likely interest to law enforcement in a single stand alone LED edition, similar to the year end Subject Matter Index for cases. We are still including an Index (located at page 16) to assist readers in locating legislation of particular interest.

Note that unless a different effective date is specified in the legislation (which will be shown with bolding in this update), acts adopted during the 2014 regular session (there was no special session in 2014) take effect on June 12, 2014 (90 days after the end of the regular session). For some acts, different sections have different effective dates within the same act. We will generally indicate the effective date(s) applicable to the sections that we believe are most critical to law enforcement officers and their agencies.

Consistent with our past practice, our legislative updates will for the most part not digest legislation in the subject areas of sentencing, consumer protection, retirement, collective bargaining, civil service, tax, budget, and workers' compensation.

The text of each of the 2014 Washington acts and of their bill reports is available on the Internet at [<http://apps.leg.wa.gov/billinfo/>]. Use the 4-digit bill number for access to the act and bill reports.

We will include some RCW references in our entries, but where new sections or chapters are created by the legislation, the State Code Reviser must assign the appropriate code numbers. Codification by the Code Reviser likely will not be completed until early fall of this year.

We once again want to thank the staff of the Washington Association of Prosecuting Attorneys (WAPA) and the Washington State Patrol for assistance in our compiling of acts of interest to Washington law enforcement.

We remind our readers that any legal interpretations that we express in the LED regarding either legislation or court decisions: (1) do not constitute legal advice, (2) express only the views of the editor, and (3) do not necessarily reflect the views of the Attorney General's Office or of the Criminal Justice Training Commission. As always, we urge law enforcement agencies to consult their own legal advisors and local prosecutors for legal guidance.

ACTS PASSED DURING THE 2014 LEGISLATIVE SESSION

ARREST WITHOUT WARRANT

Chapter 5 (SHB 2057)

Effective date: June 12, 2014

Amends the first paragraph of RCW 10.31.100 to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of ~~((the))~~ an officer, except as provided in subsections (1) through (11) of this section.

LED EDITORIAL COMMENT: This amendment is intended to “reverse” the Washington State Supreme Court decision in State v. Ortega, 177 Wn.2d 116 (March 21, 2013) June 13 LED:19 (arrest by officer who was not in the observation post and did not see gross misdemeanor violation of Seattle drug-loitering ordinance held not to meet RCW 10.31.100 misdemeanor-presence rule; also, fellow-officer or police team rule does not apply such as to make arrest lawful under RCW 10.31.100’s misdemeanor-presence requirement). By amending the statute from “the” to “an” it allows the misdemeanor or gross misdemeanor to be committed in the presence of an officer, not necessarily the arresting officer.

SEATTLE UNIVERSITY SPECIAL LICENSE PLATES

Chapter 6 (HB 2100)

Effective Date: Jan. 1, 2015

Adds Seattle University to the list of approved special license plates.

INVOLUNTARY MEDICATION FOR MAINTAINING THE LEVEL OF RESTORATION IN JAIL

Chapter 10 (SHB 2195)

Effective Date: June 12, 2014

Specifically provides that maintaining competency in jail, following a competency restoration period and subsequent discharge from a state hospital, is a purpose for which the court may order a criminal defendant facing serious charges to be involuntarily medicated.

PRETRIAL RELEASE PROGRAMS

Chapter 24 (SHB 1171)

Effective Date: June 12, 2014

Adds a new section to chapter 10.21 RCW defining “pretrial release program” and providing:

A pretrial release program may not agree to supervise, or accept into its custody, an offender who is currently awaiting trial for a violent offense or sex offense, as defined in RCW 9.94A.030, who has been convicted of one or more violent offenses or sex offenses in the ten years before the date of the current offense, unless the offender’s release before trial was secured with a payment of bail.

ALLOWING SALES OF GROWLERS OF WINE

Chapter 27 (SHB 1742)

Effective Date: June 12, 2014

Amends RCW 66.24.170 to allow domestic wineries with separate tasting rooms to sell their own wines in kegs or sanitary containers (growlers) filled at the tap by the seller.

AUTHORIZING DE MINIMIS USE OF STATE RESOURCES TO PROVIDE INFORMATION ABOUT PROGRAMS THAT MAY BE AUTHORIZED PAYROLL DEDUCTIONS

Chapter 28 (HB 1785)

Effective Date: June 12, 2014

Amends RCW 42.52.160 (part of the state ethics laws) to provide:

This section does not prohibit de minimis use of state facilities to provide employees with information about (a) medical, surgical, and hospital care; (b) life insurance or accident and health disability insurance; or (c) individual retirement accounts, by any person, firm, or corporation administering such program as part of authorized payroll deductions pursuant to RCW 41.04.020.

COMMUNITY CUSTODY CONDITIONS FOR SEX OFFENDERS

Chapter 35 (SSB 6069)

Effective Date: June 12, 2014

The Final Bill Report provides the following summary:

[The Department of Corrections] DOC may require a sex offender to refrain from contact with the victim of the crime or an immediate family member of the victim. If a victim or an immediate family member of a victim requests that the offender not contact them, DOC must require the offender to refrain from contact with the requestor. If the victim is a minor, the parent or guardian of the victim may make a request on the victim's behalf.

At the time of providing notice of a sex offender's proposed residence to persons who requested notice, DOC must also inform the person that a victim or an immediate family member of a victim may request that the offender refrain from contacting that person as a condition of the offender's community custody if the condition is not already provided by court order.

FISH AND WILDLIFE ENFORCEMENT

Chapter 48 (ESSB 6041)

Effective Date: June 12, 2014

Makes a number of changes to crimes enforced primarily by the Department of Fish and Wildlife (DWF). The Final Bill Report provides the following summary:

Existing definitions for fish buyer, to fish, and to hunt are clarified. New definitions are provided for the terms to take, to waste, unclassified wildlife, wild salmon, and wild steelhead.

[Numerous . . . definitional and clarifying changes are made.]

The crime of unlawful taking of endangered fish or wildlife is expanded from maliciously destroying to intentionally destroying eggs or nests of endangered fish or wildlife. The offense of unlawful taking of protected fish or wildlife is expanded to include when a person: (1) maliciously takes or harasses the fish or wildlife; (2) intentionally takes fish or wildlife; or (3) intentionally destroys eggs or nests. An exemption is created for the unlawful taking of eggs and nests if the action was done under a permit issued by DFW or a permit issued pursuant to the federal Endangered Species Act.

New penalties are imposed for the death of a white sturgeon longer than 55 inches, \$2,000; any green sturgeon, \$2,000; or a wild salmon or wild steelhead, \$500. These additional penalties must be imposed, are in addition to any other current penalties, and may not be suspended, waived, modified, or deferred. The penalties are doubled if the person commits another violation that requires payment of a criminal wildlife penalty within five years or if the person took the fish with the intent of deriving an economic profit.

The fine, plus any statutory assessments, for illegal interactions with a southern resident orca whale is statutorily set at \$500. The definition of vessel is clarified for the purpose of this infraction. Vessel does not include flotation devices customarily used by swimmers.

The grandfather clause is repealed that permitted trafficking in shark fin and its derivative products which were acquired before July 22, 2011.

The statutes regulating fish and shellfish accounting are merged and clarified. Commercial fishers, direct retail sellers, and other unlicensed persons, acting in such capacity, are added to the list of those individuals who can be found guilty of unlawful catch accounting. New definitions are added for the terms receives and delivers fish or shellfish. The related statute [RCW 77.15.560] is repealed as a result of the merged provisions.

A new misdemeanor crime is created to prohibit the possession of fish, shellfish, or wildlife that the person knows was taken in violation of another state's or country's laws. Another misdemeanor crime is created for engaging in wildlife rehabilitation without a permit issued by DFW. DFW must adopt rules that specify when a citizen may capture or transport animals for rehabilitation.

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COERCION OF INVOLUNTARY SERVITUDE

Chapter 52 (SSB 6339)

Effective Date: June 12, 2014

Creates a new crime by adding a new section to chapter 9A.40 RCW which reads as follows:

- (1) A person is guilty of coercion of involuntary servitude if he or she coerces, as defined in RCW 9A.36.070, another person to perform labor or services by:
 - (a) Withholding or threatening to withhold or destroy documents relating to a person's immigration status; or
 - (b) Threatening to notify law enforcement officials that a person is present in the United States in violation of federal immigration laws.
- (2) Coercion does not include reports to law enforcement that a person is present in the United States in violation of federal immigration laws.
- (3) A person may commit coercion of involuntary servitude regardless of whether the person provides any sort of compensation or benefits to the person who is coerced.
- (4) Coercion of involuntary servitude is a class C felony.

ALLOWING SALES OF GROWLERS OF CIDER

Chapter 54 (SSB 6442)

Effective Date: June 12, 2014

Adds a new section to chapter 66.28 RCW that allows licensees that are already authorized to sell beer in growlers (sanitary containers) to also sell cider in growlers.

PROMOTING TRANSPARENCY IN GOVERNMENT BY REQUIRING PUBLIC AGENCIES WITH GOVERNING BODIES TO POST AGENDAS ONLINE IN ADVANCE OF MEETINGS

Chapter 61 (SHB 2105)

Effective Date: June 12, 2014

Adds a new section to RCW 42.30 (Open Public Meetings Act) that provides:

Public agencies with governing bodies must make the agenda of each regular meeting of the governing body available online no later than twenty-four hours in advance of the published start time of the meeting. An agency subject to provisions of this section is not required to post an agenda if it does not have a web site or if it employs fewer than ten full-time equivalent employees. Nothing in this section prohibits subsequent modifications to agendas nor invalidates any otherwise legal action taken at a meeting where the agenda was not posted in accordance with this section. Nothing in this section modifies notice requirements or shall be construed as establishing that a public body or agency's online posting of an agenda as required by this section is sufficient notice to satisfy public notice requirements established under other laws. Failure to post an

agenda in accordance with this section shall not provide a basis for awarding attorney fees under RCW 42.30.120 or commencing an action for mandamus or injunction.

PREVENTING THEFT OF ALCOHOLIC SPIRITS FROM LICENSED RETAILERS

Chapter 63 (ESHB 2155)

Effective Date: June 12, 2014

The Final Bill Report provides the following summary:

The [Liquor Control Board] LCB and law enforcement agencies are authorized to regulate spirits retail licensees (licensees) for the purpose of reducing the theft of spirits from the premises of such licensees.

A law enforcement agency (agency) may make initial contact and consult with a licensee if the agency obtains information indicating that the licensee is experiencing an unacceptable rate of spirits theft [defined]. If the agency voluntarily opts to initiate and participate in this investigative and consultative process, the agency must complete the process before it notifies the LCB of the alleged theft problem. The LCB may not become involved in the investigative process until such time as the agency has had an opportunity to consult with the licensee and endeavor to resolve the theft issue.

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RELATING TO DEXTROMETHORPHAN

Chapter 64 (2SHB 2163)

Effective Date: June 12, 2014

Adds a new chapter to title 69 RCW including a new section that provides in part:

(1) A person making a retail sale of a finished drug product containing any quantity of dextromethorphan must require and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be twenty-five years of age or older.

(2) It is unlawful for any:

(a) Commercial entity to knowingly or willfully sell or trade a finished drug product containing any quantity of dextromethorphan to a person less than eighteen years of age; or

(b) Person who is less than eighteen years of age to purchase a finished drug product containing any quantity of dextromethorphan;

Exceptions are made for active military personnel and emancipated minors.

Law enforcement must issue a written warning for the first violation of the act. A second or subsequent violation of the act is a class 1 civil infraction.

TRAINING PUBLIC OFFICIALS AND EMPLOYEES REGARDING PUBLIC RECORDS, RECORDS MANAGEMENT, AND OPEN PUBLIC MEETINGS – “OPEN GOVERNMENT TRAINING ACT”

Chapter 66 (ESB 5964)

Effective Date: July 1, 2014

Requires that members of the governing body of a public agency complete Open Public Meetings Act (OPMA), chapter 42.30 RCW, training; and requires that statewide or local elected officials, public records officers, and records retention officers complete Public Records Act (PRA), chapter 42.56 RCW, and training and in records management and retention, chapter 40.14 RCW. The training must be completed within 90 days of assuming responsibilities and a refresher course must be completed every 4 years thereafter. The training may be completed remotely.

LED EDITORIAL NOTE: The Attorney General's Office has developed an online "Open Government Training" web page on the AGO website:

<http://www.atg.wa.gov/OpenGovernmentTraining.aspx> The training webpage has a number of training resources and materials to assist individuals in compliance with this new law.

EXEMPTING COLLECTIBLE VEHICLES FROM EMISSION TEST REQUIREMENTS

Chapter 72 (HB 2359)

Effective Date: June 12, 2014

Amends RCW 46.16A.060 to add collectible vehicles to the list of vehicles exempt from emission tests.

BREAST CANCER AWARENESS SPECIAL LICENSE PLATES

Chapter 77 (HB 2700)

Effective Date: Jan. 1, 2015

Adds Breast Cancer Awareness to the list of approved special license plates.

SENIOR CENTER LIQUOR LICENSES

Chapter 78 (SB 5310)

Effective Date: June 12, 2014

Adds a new section to chapter 66.24 RCW and amends other statutes to create a “senior center license” which permits the licensee to sell drinks by the glass for consumption on the premises of qualifying senior centers.

VEHICLE OWNER LIST FURNISHMENT REQUIREMENTS

Chapter 79 (SSB 5467)

Effective Date: June 12, 2014

Amends RCW 46.12.630 (and adds a new section to chapter 46.68 RCW) relating to disclosure of vehicle owner information by the Department of Licensing. Defines “personal information” and prohibits it from being disclosed for direct marketing purposes and prohibits “highly restricted personal information” from being disclosed at all.

(8) For purposes of this section, “personal information” means information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address (but not the five-digit zip code), telephone number, or medical or disability information. However, an individual’s photograph, social security number, and any medical or disability-related information is considered highly restricted personal information and may not be released under this section.

DISPLAY AND REPLACEMENT OF LICENSE PLATES

Chapter 80 (2ESSB 5785)

Effective Date: June 12, 2014

The Final Bill Report provides the following summary:

The requirement to periodically replace license plates is removed. However, a license plate must be replaced at the time a vehicle changes ownership, at which time vehicle registration expires as well. A license plate does not expire when the change in ownership is related to a transfer between immediate family members or from a trust; when a lien holder is added or removed from a title or a leaseholder buys the leased vehicle; when removing a deceased spouse or domestic partner; or when the owner changes the owner's name.

A vehicle registration is valid for 12 months or until the vehicle changes ownership. The new owner must make application for new license plates and registration renewal and pay any taxes and fees that are due at registration renewal. The new owner of a vehicle applying for a renewal registration must be credited for any motor vehicle excise tax paid by the previous owner that expired. The new owner may apply to retain the current license plates. New license plates and registration do not need to be obtained for vehicles that are sold to vehicle dealers until the dealer sells the vehicle.

This act applies to vehicle registrations that are due or become due on or after January 1, 2015.

PROTECTING CHILDREN UNDER THE AGE OF EIGHTEEN FROM THE HARMFUL EFFECTS OF EXPOSURE TO ULTRAVIOLET RADIATION ASSOCIATED WITH TANNING DEVICES

Chapter 87 (SB 6065)

Effective Date: June 12, 2014

Adds a new chapter to title 18 RCW that prohibits persons under eighteen from using an ultraviolet tanning device without a written prescription from a physician. The owner of a tanning facility that violates this chapter is liable for a civil penalty not to exceed two hundred fifty dollars per violation.

ADDRESSING WILDFIRES CAUSED BY INCENDIARY DEVICES

Chapter 90 (SSB 6199)

Effective Date: June 12, 2014

Amends RCW 76.04.005 and .455. The Final Bill Report provides the following summary:

In addition to the current prohibitions on actions in a forest, brush, range, or grain area during the closed season, it is generally unlawful to release a sky lantern or detonate an exploding target. However, a person may use a nonflammable exploding target if they have either lawful possession and control of the land or written permission for the activity.

At other times of the year, a person is generally prohibited from discharging incendiary ammunition, releasing a sky lantern, or detonating an exploding target in a forest, brush, range, or grain area unless the person has either lawful possession and control of the land or written permission for the activity.

Violations of these prohibitions remain punishable as a misdemeanor.

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CREATING EFFECTIVE AND TIMELY ACCESS TO MAGISTRATES FOR PURPOSES OF REVIEWING SEARCH WARRANT APPLICATIONS

Chapter 93 (SSB 6279)

Effective Date: June 12, 2014

The stated intent of this act is to create effective and timely access to magistrates for the purpose of reviewing search warrant applications, which are more frequent as a result of recent United States and Washington State Supreme Court decisions.

The act adds new sections to chapter 2.20 RCW and chapter 10.79 RCW and amends RCW 9A.72.085. The Final Bill Report provides the following summary:

Any district or municipal court judge in the county in which the offense is alleged to have occurred may issue a search warrant for a person or evidence located anywhere in the state.

Application for a warrant may be transmitted to a magistrate by telephone, email, or any other reliable method. The magistrate may communicate permission to affix the magistrate's signature to the warrant by telephone, email, or any other reliable method.

If the application for a search warrant is made through unsworn certification or declaration, a person may subscribe to an unsworn statement by signing the document or attaching a digital signature or electronic signature. If the person is an attorney, the person may subscribe electronically in the manner described in the court rule governing electronic filing. If the person is a law enforcement officer, the subscription requirement is satisfied by affixing or logically associating the person's full name, department or agency, and badge or personnel number to an electronically submitted document from an electronic device that is owned, issued, or maintained by a criminal justice agency. By

subscribing to the statement in any one of the above-listed manners, the subscriber affirms that the statements made are true and correct, and does so under penalty of perjury.

A record of the email evidence in support of probable cause and the magistrate's email authorization of the warrant must be preserved for the record in accordance with court rule.

(Emphasis added.)

LED EDITORIAL COMMENT: Officers should check with their assigned agency legal advisors and local prosecutors for revised search warrant affidavit forms and revised search warrant forms that reflect the changes in the law. In addition to other changes, we anticipate that the revised signature blocks for affidavits submitted electronically or by telephone may be similar to this example from WAPA:

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

This affidavit was submitted to a court, a prosecutor, or a magistrate from an electronic device that is owned, issued, or maintained by the below-identified criminal justice agency on this ____ day of _____, 20__, at _____, WA.

Officer's full name: /s/ _____
Officer's badge or personnel #: _____
Agency Name: _____

PRIOR OFFENSES FOR DRIVING UNDER THE INFLUENCE OR PHYSICAL CONTROL OF A VEHICLE UNDER THE INFLUENCE

Chapter 100 (SB 6413)

Effective Date: June 12, 2014

Adds a new subsection to RCW 10.31.100 which requires mandatory arrest for driving while under the influence (DUI) or physical control where an officer has knowledge of a prior offense within the past ten years. The new subsection provides as follows:

(14) A police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years.

Also amends RCW 46.61.6055 by adding five new offenses that count as prior DUI offenses.

CONSECUTIVE SENTENCES FOR DRIVING UNDER THE INFLUENCE OR PHYSICAL CONTROL OF A VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR, MARIJUANA, OR ANY DRUG

Chapter 101 (SB 6415)

Effective Date: NONE

LED EDITORIAL NOTE: This act would have required sentences for felony DUI, felony physical control, circumventing an ignition interlock device, and operating a motor vehicle without a required ignition interlock device to be served consecutively. However, section 4 of the act provided that the act would be null and void if it was not specifically funded in the budget. The act was NOT funded in the budget and as such it is null and void.

EXEMPTING AGENCY EMPLOYEE DRIVER'S LICENSE NUMBERS AND IDENTICARD NUMBERS FROM PUBLIC INSPECTION AND COPYING

Chapter 106 (ESSB 6517)

Effective Date: June 12, 2014

Amends RCW 42.56.250(3) (part of the Public Records Act (PRA)) to add employee driver's license numbers and identocard numbers to the list of information that is exempt from public disclosure (when contained in personnel related records).

VACATING PROSTITUTION CONVICTIONS

Chapter 109 (SHB 1292)

Effective Date: June 12, 2014

Amends RCW 9.96.060 (misdemeanor vacate) and adds a new section to chapter 9.96 RCW specifically providing for the vacation of prostitution convictions where the defendant was a victim of trafficking.

STATEMENTS MADE BY JUVENILES DURING ASSESSMENTS OR SCREENINGS FOR MENTAL HEALTH OR CHEMICAL DEPENDENCY TREATMENT

Chapter 110 (HB 1724)

Effective Date: June 12, 2014

The Final Bill Report provides the following summary:

Provides that statements, admissions, or confessions made by a juvenile in the course of a mental health or chemical dependency screening or assessment are inadmissible as evidence of the juvenile's guilt in a juvenile offense matter or an adult criminal proceeding.

FIREARMS LAWS CONCERNING PERSONS SUBJECT TO NO-CONTACT ORDERS, PROTECTION ORDERS

Chapter 111 (ESHB 1840)

Effective Date: June 12, 2014

(Section 5 (relating to proof of surrender) effective: December 1, 2014)

The act amends RCW 9.41.040 (Unlawful Possession of a Firearm) to make the possession of a firearm while subject to a qualifying protection, no-contact, or restraining order constitutes Unlawful Possession of a Firearm in the second degree.

When entering a qualifying order the court must:

- require the respondent to surrender any firearm or other dangerous weapon;
- prohibit the respondent from obtaining or possessing a firearm or other dangerous weapon;
- require the party to surrender their concealed pistol license; and
- prohibit the party from obtaining or possessing a concealed pistol license.

The Administrative Office of the Courts is required to develop pattern forms for use in documenting a restrained person's compliance with an order to surrender firearms, weapons, and the person's concealed pistol license. When surrender of these items is ordered, the restrained person must file the appropriate form with the court within five judicial days.

Law enforcement agencies must develop policies and procedures regarding acceptance, storage, and return of weapons required to be surrendered.

CIVIL SUITS BY PRISONERS AGAINST VICTIMS

Chapter 113 (SHB 2102)

Effective Date: June 12, 2014

Adds a new section to chapter 9.94A RCW that requires individuals convicted and confined for any serious violent offense as defined in RCW 9.94A.030 to obtain an order from the sentencing judge, or presiding judge in the county of conviction, prior to commencing any civil action in state court against the victim of the offense, or the victim's family.

SPECIAL PARKING PRIVILEGES FOR PERSONS WITH DISABILITIES

Chapter 124 (ESHB 2463)

Effective Date: July 1, 2015

The Final Bill Report provides the following summary:

The application materials for special parking privileges must include a warning that an applicant or health care practitioner who knowingly provides false information is guilty of a gross misdemeanor. . . .

Parking placards issued by the [Department of Licensing] DOL must include on the front of the placard a serial number and an expiration date, both of which must be clearly visible from a distance of 10 feet. It is a traffic infraction for a person to fail to display the full face of such a placard when parked in a space reserved for persons with disabilities. This infraction carries a total penalty of \$450.

Additionally, it is a misdemeanor to illegally obtain or to sell a parking placard, special license plate, special year tab, or identification card. If a person is found to have violated the provisions relating to special parking for persons with disabilities, a court may order a person to surrender his or her placard, plate, tab, or card.

Finally, accessible van rental companies are added to the list of organizations that may apply for special parking privileges.

ARREST OF INDIVIDUALS WHO SUFFER FROM CHEMICAL DEPENDENCY

Chapter 128 (2SHB 2627)

Effective Date: June 12, 2014

Creates a pilot program in Snohomish County that, among other things, allows a police officer to take an individual who is believed to have committed a non-felony offense that is not driving under the influence and suffering from chemical dependency to certain chemical dependency treatment locations.

LED EDITORIAL COMMENT: This pilot program applies only to officers that work in Snohomish County.

PERSONS SENTENCED FOR OFFENSES COMMITTED PRIOR TO REACHING EIGHTEEN YEARS OF AGE

Chapter 130 (2SSB 5064)

Effective Date: June 1, 2014

Amends a number of juvenile sentencing statutes in light of the United States Supreme Court decision in *Miller v. Alabama*, ___ U.S. ___ (2012) (Eighth Amendment ban on cruel and unusual punishment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile homicide offenders).

OPERATION OF A VESSEL UNDER THE INFLUENCE OF AN INTOXICANT

Chapter 132 (SSB 6016)

Effective Date: June 12, 2014

Amends boating under the influence laws, RCW 79A.60.040, to make the blood draw provision consistent with that of the implied consent laws for motor vehicles. Specifically, “[w]hen an arrest results from an accident in which there has been serious bodily injury to another person or death or the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of THC or any other drug, a blood test may be administered with the consent of the arrested person and a valid waiver of the warrant requirement or without the consent of the person so arrested pursuant to a search warrant or when exigent circumstances exist.”

AERONAUTIC SAFETY

Chapter 134 (SSB 6054)

Effective Date: June 12, 2014

Adds a new section to chapter 14.16 RCW. The Final Bill Report provides the following summary:

Any temporary or permanent guyed tower 25 feet or more in height located outside an incorporated city or town, not governed by an existing state or federal law or regulation, and on land that is primarily rural, undeveloped agricultural, or desert must be lighted, marked, and painted, or otherwise be visible in clear air during daylight hours from 2000 feet. Specific requirements related to marking and lighting the guyed tower are prescribed in the act.

The act provides certain exemptions. Violation of the act is a misdemeanor.

CLARIFYING THAT MARIJUANA, USEABLE MARIJUANA, AND MARIJUANA-INFUSED PRODUCTS ARE NOT AGRICULTURAL PRODUCTS

Chapter 140 (SB 6505)

Effective Date:

This bill contains various expiration dates and effective dates

The Final Bill Report provides the following summary:

Marijuana, useable marijuana, and marijuana-infused products are excluded from existing tax preferences. The growing or producing of marijuana products is explicitly removed from the definitions of agriculture and farmer, which eliminates the ability for persons in that industry to take advantage of the agriculture exemptions. The exclusions for marijuana include 8 B&O tax preferences; 16 sales and use tax preferences; 4 additional excise tax preferences; and 4 property tax preferences, 2 for real property and 2 for personal property.

Additionally, the act exempts persons producing marijuana and marijuana products from inspection and licensing by the Department of Agriculture in regard to plants, seeds, and packaging. Marijuana is not subject to agriculture commodity provisions.

DECLARING THE *OSTREA LURIDA* THE OFFICIAL OYSTER OF THE STATE OF WASHINGTON

Chapter 146 (SSB 6145)

Effective Date: June 12, 2014

Amends chapter 1.20 RCW to add new sections declaring the *Ostrea lurida*, the only oyster native to Washington, the official state oyster.

PROVISIONS GOVERNING COMMERCIAL MOTOR VEHICLES

Chapter 154 (HB 2137)

Effective Date: June 12, 2014

Amends several statutes in order to make Washington law consistent with federal law and regulations relating to commercial motor vehicles. The Final Bill Report provides the following summary:

- The size of the warning flag on over-dimensional loads is changed from 12 inches to 18 inches, also allowing for either red or orange fluorescent warning flags.
- It is clarified that only certain agricultural operations are exempt from regulations concerning the transportation of hazardous materials.
- The [Washington State Patrol] WSP is given the authority to inspect entities that manufacture hazardous materials or perform pre-transportation functions for compliance with the federal standards.
- The exemption for school buses not to stop at railroad crossings is removed.
- The requirement for the WSP to establish a list of railroad crossings where stopping is not required is removed and changed to the [Utilities and Transportation Commission] UTC.

LIABILITY OF HEALTH CARE PROVIDERS RESPONDING TO AN EMERGENCY

Chapter 159 (SHB 2492)

Effective Date: June 12, 2014

Adds a new section to chapter 4.24 RCW providing immunity to health care providers who credential or grant privileges to other providers if responding to an emergency proclaimed by the Governor and the provider does not act with gross negligence or willful or wanton misconduct.

ALLOWING MOTORCYCLES TO STOP AND PROCEED THROUGH TRAFFIC CONTROL SIGNALS UNDER CERTAIN CONDITIONS

Chapter 167 (SHB 5141)

Effective Date: June 12, 2014

Adds a new section to chapter 46.61 RCW which provides as follows:

Notwithstanding any provision of law to the contrary, the operator of a street legal motorcycle approaching an intersection, including a left turn intersection, that is controlled by a triggered traffic control signal using a vehicle detection device that is inoperative due to the size of the street legal motorcycle shall come to a full and complete stop at the intersection. If the traffic control signal, including the left turn signal, as appropriate, fails to operate after one cycle of the traffic signal, the operator may, after exercising due care, proceed directly through the intersection or proceed to turn left, as appropriate. It is not a defense to a violation of RCW 46.61.050 that the driver of a motorcycle proceeded under the belief that a traffic control signal used a vehicle detection device or was inoperative due to the size of the motorcycle when the signal did not use a vehicle detection device or that any such device was not in fact inoperative due to the size of the motorcycle.

RESPECTING HOLIDAYS OF FAITH AND CONSCIENCE ACT

Chapter 168 (SSB 5173)

Effective Date: June 12, 2014

Authorizes public employees to take two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization.

ACCESS TO JUVENILE RECORDS

Chapter 175 (2SHB 1651)

Effective Date: June 12, 2014

Adds and amends several sections in title 13 RCW. The Final Bill Report provides the following summary:

Courts must hold regular hearings to seal juvenile court records, which will be sealed administratively unless the court receives an objection or the court receives a compelling reason not to seal, in which case, there will be a contested sealing hearing. . . .

A court may not seal a juvenile court record during a regularly scheduled sealing hearing if one of the offenses is:

- a most serious offense;
- a sex offense; or
- a drug offense.

A respondent must complete the terms of his or her disposition, including affirmative conditions and financial obligations in order to have a court seal his or her juvenile court record during a regularly scheduled sealing hearing.

. . .

VACATING CONVICTIONS FOR CERTAIN TRIBAL FISHING ACTIVITIES

Chapter 176 (SHB 2080)

Effective Date: June 12, 2014

Amends RCW 9.96.060 (Misdemeanor Vacate Statute) to provide that persons convicted of a misdemeanor, gross misdemeanor, or felony offense related to fishing activity, prior to 1975, may apply to

the sentencing court for the vacation of that conviction if the person had claimed to be exercising a tribal treaty fishing right.

The court shall vacate the conviction if:

- the person is a member of a tribe that has a treaty fishing right at the location where the offense occurred; and
- the state has been enjoined from enforcing the statute or rule that was violated, under the ruling in the United States v. Washington or other state supreme court or federal court decision, to the extent that such enforcement interferes with a treaty Indian fishing right.

MEDAL OF HONOR SPECIAL LICENSE PLATES

Chapter 181 (EHB 2397)

Effective Date: June 12, 2014

Amends a number of statutes relating to the Medal of Honor special license plate. The Medal of Honor special license plates may be used on vehicles where the Medal of Honor recipient is recorded as one of the registered owners and used on up to three vehicles.

ALLOWING FOR A VETERAN DESIGNATION ON DRIVERS' LICENSES AND IDENTICARDS

Chapter 185 (SB 5775)

Effective Date: August 30, 2017

Allows individuals to apply to the Department of Licensing to obtain a veteran designation on a driver's license or identicard.

TRAFFICKING

Chapter 188 (SHB 1791)

Effective Date: June 12, 2014

The Final Bill Report provides the following summary of this act that amends RCW 9A.40.100, RCW 9A.44.128, RCW 9.68A.120, and RCW 9A.88.150:

Sex Offense.

The statutory definition of sex offense includes the crime of trafficking in the first degree when:

- force, fraud, or coercion is used to cause the trafficked person to engage in a sexually explicit act or a commercial sex act; or
- a person under age 18 is caused to engage in a sexually explicit act or commercial sex act.
-

A finding of sexual motivation is not required in these circumstances in order for the offense to qualify as a sex offense.

Seizure and Forfeiture.

Property forfeited because of its connection to child pornography, commercial sexual abuse, or promoting prostitution may be retained for use by the seizing law enforcement agency or another law enforcement agency for enforcement of any of the above offenses, destroyed, if required by law, or sold.

MARIJUANA PROCESSING AND RETAIL LICENSES

Chapter 192 (ESHB 2304)

Effective Date: June 12, 2014

Amends several sections in chapter 69.50 RCW as well as amending RCW 42.56.270. The Final Bill Report provides the following summary:

“Marijuana concentrates” is defined as resin extracted from the Cannabis plant with a high THC concentration, in contrast to “marijuana,” which includes the entire Cannabis plant. The definition of “marijuana-infused products” is changed to include marijuana or marijuana extracts with between 0.3 percent and 60 percent THC concentration.

Licensed marijuana processors may sell marijuana, including marijuana concentrates, useable marijuana, and marijuana-infused products to other processors and to retailers. Similarly, licensed retailers may sell marijuana concentrates to the same consumers who are currently allowed to purchase useable marijuana and marijuana-infused products and subject to the same restrictions. . . .

. . . Marijuana retailers may sell up to 7 grams of marijuana concentrates product from the premises of a retail outlet, in any combination with allowable amounts of other kinds of marijuana products.

Account numbers and values provided to the [Liquor Control Board] LCB in connection with an application for a marijuana producer, processor, or retailer license are exempted from Public Records Act (PRA) disclosure.

DERELICT AND ABANDONED VESSELS

Chapter 195 (2SHB 2457)

Effective Date: June 12, 2014

Makes numerous changes to laws relating to derelict and abandoned vessels. The changes of most interest to law enforcement are summarized by the Final Bill Report as follows:

Vessels found not to be properly registered that are also required to pay the watercraft excise tax may be assessed a penalty by the [Department of Revenue] DOR. The penalty is \$100 for a first violation, \$200 for a second violation, and \$400 for violations after the second violation. The existing gross misdemeanor of registering a vessel in another state to avoid Washington's watercraft excise tax is expanded to include vessel owners who fail to register the vessel in an attempt to avoid vessel registration requirements.

REQUIREMENTS BEFORE ISSUANCE OF AN INITIAL VEHICLE REGISTRATION

Chapter 197 (HB 2741)

Effective Date: June 12, 2014

Amends RCW 46.16A.050 to remove the requirement that drivers show an unexpired driver's license for renewal of vehicle registrations. This is now only required for initial registrations.

CREATION OF A PERMIT TO ALLOW DAY SPAS TO OFFER OR SUPPLY WITHOUT CHARGE WINE OR BEER BY THE INDIVIDUAL GLASS TO A CUSTOMER FOR CONSUMPTION ON THE PREMISES

Chapter 199 (ESSB 5045)

Effective Date: June 12, 2014

Adds a new section to chapter 66.20 RCW creating a new permit that allows day spas (defined) to offer a complimentary glass of wine or beer to customers over 21, for consumption on the premises, as long as the service will last longer than an hour and other requirements are met.

SHORT-BARRELED RIFLES

Chapter 201 (SB 5956)

Effective Date: June 12, 2014

Amends RCW 9.41.190 to provide that it is "not unlawful for a person to possess, transport, acquire, or transfer a short-barreled rifle that is legally registered and possessed, transported, acquired, or transferred in accordance with federal law."

INVASIVE SPECIES

Chapter 202 (ESSB 6040)

Effective Date: June 12, 2014

Amends a number of statutes relating to aquatic invasive species (AIS). The Final Bill Report provides the following summary of the AIS inspection and enforcement provisions of the act:

[The Department of Fish and Wildlife] DFW officers and ex-officio officers are provided the authority to temporarily stop persons to inspect aquatic conveyances for AIS or compliance with clean and drain requirements based on reasonable cause; and execute a search or arrest warrant issued by a court based on probable cause that a violation of an invasive species law has occurred.

DFW staff may take samples of invasive species or inspect property or a water body under a warrant issued by a court based on probable cause that an invasive species is present and after seeking the owner's permission for the inspection.

The following acts are established as gross misdemeanors:

- failure to allow inspection while stopped at a check station;
- failure to comply with a decontamination order;
- possession of a prohibited level 1 or 2 species without DFW authorization;
- possession of, introduction of, or trafficking in a prohibited level 3 species without DFW authorization;
- introduction of a regulated type A, B, or C species without DFW authorization;
- failure to clearly identify by species or subspecies name a regulated type B species
- used for commercial purposes; and
- a knowing violation of a quarantine declaration.

Interfering with DFW personnel authorized by a warrant to conduct a rapid response or infested site management action is included within the existing crime of unlawful interfering in department operations, which is punishable as a gross misdemeanor. A class C felony is established for trafficking or introducing a prohibited level 1 or 2 species without DFW authorization, or if a person commits a second invasive species related act punishable as a gross misdemeanor within five years.

A new infraction is established for failure to follow clean and drain requirements or a clean and drain order.

...

Additionally, RCW 10.31.100 is amended to authorize officers to: (A) cite based on probable cause for an infraction under RCW 77.15.160(4) even if the infraction did not occur in the presence of an officer; and (B) make a warrantless arrest on probable cause for either of the new crimes established in the act even if the crime did not occur in the presence of an officer.

ACTIONS FOR DAMAGES ARISING FROM VEHICULAR TRAFFIC ON A PRIMITIVE ROAD

Chapter 205 (SB 6219)

Effective Date: June 12, 2014

Amends RCW 36.75.300, which allows counties to designate roads as "primitive" to add discretionary maintenance as a factor that may not be considered in an action for damages.

The design of a primitive road, any discretionary maintenance, and the location, placing, or failing to place road signs, other than the requirement that warning signs be placed as provided in this section, shall not be considered in any action for damages brought against a county, or against a county employee or county employees, or both, arising from vehicular traffic on the primitive road.

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